

## **REMARKS**

The Examiner's communication dated December 13, 2005 has been received and carefully considered. In conformance with the applicable statutory requirements, this paper constitutes a complete reply and/or a bona fide attempt to advance the application to allowance. Specifically, claims 1-7 have been amended and detailed arguments in support of patentability of all claims have been included. New claims 8-20 have been added. Reexamination and/or reconsideration of the application as amended are respectfully requested.

### **Summary of the Office Action**

No prior art rejections were lodged against dependent claims 3-7; therefore it appears that claims 3-7 contain allowable subject matter.

The specification was objected to for minor informalities.

Claims 1 and 3 were objected to for minor informalities.

Claims 1, 3 and 4-7 were rejected under 35 U.S.C. § 112, second paragraph.

Claims 3 and 4 were rejected under 35 U.S.C. § 101.

Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,568,671 to Graham in view of U.S. Patent No. 3,762,405 to De George.

### **Specification**

The Abstract of the Disclosure was objected to for a minor informality. With this response, the Abstract has been carefully amended to overcome the Abstract objection.

The title of the invention was also objected to for a minor informality. With this response, the title has been carefully amended to overcome the title objection.

### **Claim Objections**

The claims, including claims 1 and 3, have been carefully amended to overcome any antecedent basis objections.

### **35 U.S.C. § 112**

Claims 1, 3 and 4-7 have been carefully amended to overcome the 35 U.S.C. § 112, second paragraph rejection.

### **35 U.S.C. § 101**

Claims 3 and 4 have been carefully amended to overcome the 35 U.S.C. § 101 rejection asserting that the claimed invention of each of claims 3 and 4 was directed to non-statutory subject matter.

### **The Claims Distinguish Patentably Over the Reference(s) of Record**

Claim 1, as amended, calls for a foot fixing assembly to include **discrete** upper and lower foot fixing members which form a pair for immobilizing the region of a sole of a foot to a portion above an ankle of the foot. Claim 1 further calls for a connecting assembly to include **discrete** upper and lower connecting members which form a pair for immobilizing the region from the ankle to a portion below a knee above the ankle.

In rejecting original claim 1, the Examiner indicated that distal splint segment 12 of Graham includes an upper foot fixing member 24,32 and lower foot fixing member 18. While Applicant does not necessarily agree that a single distal splint segment 12 can be used in rejecting an upper foot fixing member and a lower foot fixing member, Applicant nonetheless has amended claim 1 to specifically call for the upper and lower foot fixing members to be **discrete** upper and lower foot fixing members. Thus, the upper and lower foot fixing members must be distinct from one another. In contrast, the distal splint segment 12 of Graham appears to be a unitary member and the portions thereof (i.e., 12 and 24,32) indicated as the Examiner of being the upper and lower foot fixing members cannot be said to be **discrete** upper and lower foot fixing members. Rather, the alleged upper foot fixing member 24,32 includes side wall portions of segment 12 and alleged lower foot fixing member 18 is a base portion of the distal splint segment 12.

Similarly, the Examiner indicated that the medial segment 14 of Graham includes an upper connecting member 24 and a lower connecting member 18. Again, while Applicant does not necessarily agree that a single medial segment 14 can be used to reject both an

upper connecting member and a lower connecting member, Applicant nonetheless has amended claim 1 to specifically call for discrete upper and lower connecting members. Thus, like the upper and lower foot fixing members, the upper and lower connecting members must be distinct from one another. In contrast, the medial segment 14 of Graham appears to be a unitary member and portions 24, 18 indicated by the Examiner as being upper and lower connecting members cannot be said to be discrete upper and lower connecting members. Rather, the alleged upper connecting member 24 is a side wall of medial segment 14 and the alleged lower connecting member 18 is a base of the medial segment 14.

For all of these reasons, Applicant respectfully submits that claim 1 and claims 2-10 dependent therefrom are in condition for allowance.

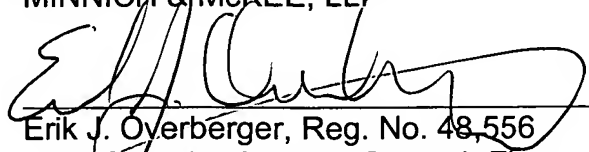
Applicant further submits that new claims 11-20 patentably distinguish over the references of record.

#### CONCLUSION

All formal and informal matters having been addressed, it is respectfully submitted that this application is in condition for allowance. It is believed that the claim changes clearly place the application in condition for allowance, defining over any fair teaching attributable to the references of record. Alternatively, if the Examiner is of the view that the application is not in clear condition for allowance, it is requested that the Examiner telephone the undersigned for purposes of conducting a telephone interview to resolve any outstanding differences. Accordingly, an early notice of allowance is earnestly solicited.

Respectfully submitted,

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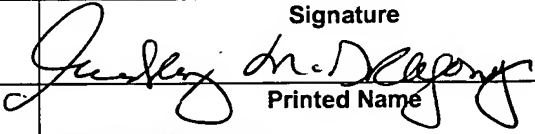
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March 16, 2006  
Date

CERTIFICATE OF MAILING OR TRANSMISSION

Under 37 C.F.R. § 1.8, I certify that this Amendment is being

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